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May 20, 2005

National Organic Standards Board  
c/o Arthur Neal  
Room 4008 – South Building  
1400 and Independence Avenue SW  
Washington, DC 20250-0001

Dear Mr. Neal;

Enclosed with this letter is the comment by Aurora Organic Dairy to the NOSB  
“Guidance for Interpretation of section 205.239(a)(2) of the National Organic Program,”  
published for public comment on March 22.

Many thanks to you, the NOSB, its livestock committee and the folks at NOP for your  
diligent work on the pasture topic and other current NOSB topics.

I look forward to seeing you at the August 2005 NOSB meeting.

Sincerely,

Clark Driftmier  
Senior VP – Marketing

CFD/rl



**Aurora Organic Dairy Written Comments to NOSB  
NOSB Proposed Guidance Statement – Pasture Requirements  
May 20, 2005**

Aurora Organic Dairy, Boulder Colorado, (“AOD”) respectfully submits the following comments to the NOSB Proposed Guidance Statement on Pasture Requirements posted on the NOP website on March 22, 2005.

In this document, the original NOSB text has been placed in **Arial font, italics, bold text**. AOD comments are in regular text with Times New Roman font.

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AOD Introductory Statement.

There are three fundamental and important principles in the discussion of the National Organic Program vis-à-vis organic dairy farming and pasture. These principles are:

1. Maintaining Optimum Animal Health;
2. Creating NOP rules and guidance statements that both uphold the NOP and are workable for the majority of U.S. organic dairy farmers;
3. Promoting the development of organic dairy systems across all U.S. climates and geographies.

Regarding the first principle, maintaining animal health, everyone in organic dairy agrees that animal health must be paramount in all issues related to NOP and its implementation. Where there is not agreement (at least to date) is when determining the specific animal health effects of specific requirements, recommendations and guidance. In all comments to the current guidance statement as well as other discussions of organic dairy, we will always place animal health and its maintenance at the head of the topic at hand.

Regarding the second principle, creating workable NOP rules and guidance, the key issue is to create rules and guidance that are the most workable across the widest range of climate and geography so that organic dairy can grow and prosper throughout the United States. This sentiment is aptly described in a recent public letter by Dr. Hubert Karreman, large animal veterinarian, NOSB member and Livestock Committee member:

*“Every locale has green grass at some point as evidenced by the regional landscape- even Juneau, Alaska and Tempe, Arizona. At that time the cows should be out on the grass, in my opinion. Simply walking on it, eating from it, being in the sunshine, laying upon it. It is what defines ruminants in the phylogenetic tree. Who knows how much they are actually ingesting and metabolizing. I am just under the firm conviction that the organic consumers' perception (and underlying assumption) is that organic cows are out on grass when it is green and the sun is shining. Naïve on their part, maybe. Naïve on my part, I don't think so, having grown up among the organic consumers in those suburbs where \*alot\* of the milk goes. I've had many discussions with my former suburbanite neighbors. They all love the fact of the cows out on the grass, but they have no idea about much else. Why can't we let the consumers have their perceptions stand true? I think the discussions regarding how much dry matter or cows per acre will pull the industry apart from the inside out. I realize why the extra quantification was being put forth. I just*

*truly believe that having the cows out on the grass when it is green and growing is the most important point. Let the individual farmers decide how much they want to graze it. Not every organic farmer has to be a full fledged grazer. I never saw that in the Rule.”<sup>1</sup>*

Regarding the third principle, promoting the development of organic dairy across the United States, this must be paramount in any guidance statement to keep NOP in accordance with Section 6501, sub-section (3) of the Organic Foods Production Act of 1990, (OFPA) which is:

*“to facilitate interstate commerce in fresh and processed food that is organically produced..”<sup>2</sup>*

In speaking with the original authors of OFPA, it is clear that Section 6501 sub-section (3) was written with the intent of making organic production grow and prosper across the country. To uphold this purpose, and to realize the long-term promise of organic, it is imperative that NOP rules and guidance statements, vis-à-vis organic dairy, be established to promote the greatest possible growth and geographic diversity of organic dairy production.

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**NOSB Livestock Committee Recommendation for Guidance  
Pasture Requirements for the National Organic Program  
March 2, 2005**

**Guidance for interpretation of 205.239(a)(2)**

**A. Organic System Plan**

***Ruminant livestock shall graze pasture during the months of the year when pasture can provide edible forage.***

AOD:

Agreed, with the important additional understanding that there is tremendous variability across the United States in climate, soil and the nature of pasture. These differences create tremendous variability to the definition of the term “*the months of the year when pasture can provide edible forage.*” The length of time with edible forage varies greatly by region. For example, in Eastern Colorado the normal climate and rainfall pattern provides about 45-60 days of significant edible forage in the absence of irrigation. Thus, for our region we would define this 45-60 day period as the period of “edible forage” as described in the Guidance Statement. Other regions have more days than this; many have fewer days. Because the allotment of “edible forage days” varies so widely between regions, we believe the Guidance Statement should be modified to remove the arbitrary requirement of 120 days and replace it with language that allows certifiers to set the required days in their particular climate. NOP rules and guidance should always be made providing interpretive freedom so that organic system plans can be developed that are workable in every U.S. climate and geography.

***The Organic System Plan shall have the goal of providing grazed feed greater than 30% dry matter intake on a daily basis during the growing season but not less than 120 days.***

AOD:

There are four reasons why this section of the guidance statement should not be implemented:

1. Animal health.
2. Difficulties with measurement of Dry Matter Intake (“DMI”) from grazing.
3. “The 120 day” requirement is arbitrary and conflicts with earlier language in the Guidance Statement.

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<sup>1</sup> Dr. Hubert Karreman; Letter posted on [Odairy@yahoogroups.com](mailto:Odairy@yahoogroups.com) Listserve; April 12, 2005.

<sup>2</sup> Organic Foods Production Act of 1990; Section 6501 Purposes, sub-section (3)

#### 4. Difficulties for most U.S. organic dairy farmers to meet the requirement.

First, the proposed requirement for 30% DMI for not less than 120 days is not supported by any conclusive evidence linking it with improving, or even maintaining, animal health. In our review of the literature, we have not seen peer-reviewed research demonstrating that a milk cow with 30% DMI from pasture is healthier than a milk cow with a different proportion of DMI from pasture in the diet. We have also not found research documenting that animals on pasture for 120 days are healthier than animals on pasture for different periods of time. Until this research is undertaken, it cannot be concluded that the guidance statement will improve animal health.

Second, the proposed 30% DMI requirement is not measurable and will create severe implementation difficulties for certifiers in terms of evaluating compliance with the requirement.

In the National Organic Program – Production and Handling – Preamble, Subpart C, there is an important section that pertains to the measurable indicators used in the evaluation of an Organic System Plan. To quote this section of the preamble:

*“The third element of the organic system plan is a description of the methods used to evaluate its effectiveness. Producers and handlers are responsible for identifying **measurable indicators** (emphasis added by AOD) that can be used to evaluate how well they are achieving the objectives of the operation.”<sup>3</sup>*

For measuring DMI on pasture, the “measurable indicator” is a standardized sample of pasture (e.g. 1.0 sq. meter), collected daily, then dried and weighed, then calculated as a percent of the overall diet of the cow.

Unfortunately, there are several problems that make it virtually impossible to record an accurate measure of this type. Among these problems:

1. Variability of DMI content on an individual field. Pasture fields vary considerably in the nature of forage, due to soil type, soil compaction, soil temperature and percolation, sunny or shady location, and species of forage, to name just a few. To measure DMI accurately would require multiple daily measurements across each field. We seriously doubt whether U.S. organic dairy farmers have the time or resources available to adequately perform this task.  
  
Absent this measurement, both farmers and certifiers will be tempted to resort to guesswork in order to create a numerical calculation to meet the requirement.
2. Variability of DMI content by day and season. In most U.S. climates and geographies, the growth and DMI content of forage varies dramatically by day and season. As such, measurement of DMI would be required daily to provide sufficient and accurate information.
3. Variability of DMI content by animal – weight, lifestage, stage of lactation, individual factors. Even if the DMI content of the field is measured, one must add the high variability in feeding patterns of the herd itself – heavy vs. small, young vs. old, early vs. later lactation, heavy “eaters” vs. lighter eaters, cows which prefer grazed feed vs. dry forage, grains, etc. Multiply these natural variations by the size of the herd, and the accurate measurement of the DMI intake of the herd from pasture becomes virtually impossible.

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<sup>3</sup> The National Organic Program; Production and Handling – Preamble; Subpart C – Organic Crop, Wild Crop, Livestock, and handling Requirements.

4. Calculation of wasted pasture due to damage by manure piles and stepping by the herd. This is just an estimate, and therefore it will directly affect the total amount of edible forage calculation on a daily basis.

We submit that, given these many complex variations, it will not be possible for a farmer or a certifier to measure DMI accurately. Thus, we do not see an accurate or workable way to create the “measurable indicator” spoken of in the Preamble to fulfill the DMI percentage requirements of the guidance document. Without this measurable indicator, it will not be possible to fulfill the NOP principle to “*evaluate how well they are achieving the objectives of the operation.*”

Third, the arbitrary selection of 120 days is not backed up either with evidence regarding animal health or with any accommodation for the great variability in natural pasture growth in different U.S. climates and geographies. In the area of animal health, the arbitrary selection of 120 days could actually lead to a reduction in health and body condition if the quality of pasture during those days is not suitable for the nutrition and energy needs of the animal, especially when combined with the equally-arbitrary requirement of 30% DMI from pasture. In the area of climate, it is clear that many regions of the country have substantial natural pasture for fewer than 120 days. Forcing a high intake of nutrition from pasture during times of sub-optimal plant growth could lead to serious loss of soil and pasture health. The wording of the guidance statement needs to be changed to accommodate these two important principles.

Fourth, many, if not most, U.S. organic dairy farmers will have difficulty meeting the requirement for minimum 30% DMI for not less than 120 days. A number of farmers were previously under the erroneous impression that meeting this requirement would be “easy,” and at the March 2005 NOSB meeting many verbal comments were made to this effect. Now, however, there is growing concern, even among those who previously supported this requirement, that its implementation won’t be easy at all, but may in fact be quite difficult to achieve. A good example of this sentiment is the opinion of Dave Engel, an experienced organic dairy farmer and Executive Director of the Midwest Organic Services Association (MOSA). In the transcript of the NOSB meeting on March 2, 2005, Mr. Engel made the following statement:

*“I did take a bit of time here in the last couple of days to talk with a couple of dairy farmers back in our area, one is certified by MOSA and one is certified by Oregon Tilth; they are both part of the original several CROPP dairy farmers and both of them, along with my farm, are going to have challenges to meet the specificity that is being put into the rule, much less the specificity that is being talked about, for example, the number of cows per acre.”*<sup>4</sup>

In addition to Mr. Engel and MOSA, a number of other leading certifiers have made comments at meetings such as the Western Organic Dairy Producers Association (WODPA), held on April 1, 2005, questioning two fundamentals of the proposed requirement:

- a) the ability of farmers to meet the requirement.
- b) the ability of certifiers to accurately measure and evaluate compliance with the requirement.

In conclusion, USDA should not set up any system, either by rule or by guidance, that purports to promote animal health but is not supported by a strong body of evidence; that lacks a mechanism for its fair and reasonable evaluation; that disregards the high variability in natural pasture duration across the country; and that will be difficult for a large percent of U.S. organic dairy farmers to implement successfully. Unless evaluation mechanisms and measurable indicators can be developed for the calculation of DMI percentage, and additional evidence is provided demonstrating the animal and soil health benefits of the proposal, we recommend not implementing this section of the guidance document.

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<sup>4</sup> Dave Engel; Verbal comment to NOSB; March 2, 2005; Reprinted in NOSB meeting transcript.

***The Organic System Plan shall include a timeline showing how the producer will satisfy the goal to maximize the pasture component of total feed used in the farm system.***

AOD:

We agree that it is good to establish timetables and documentation of pasture as part of the farm system. However, we suggest that the phrase “maximize the pasture component” be changed to “optimize the pasture component.” The reason for this recommendation is that maximum pasture, in certain circumstances, could lead to a reduction in overall animal health, rumen health or body condition. An example of this phenomenon includes times when pasture grass is extremely moist and low in DMI. In such conditions, forcing an overly high percent of pasture forage in the diet would lead to fiber imbalance and digestive disorders. Another example is during times of drought, when forcing an overly high percent of pasture would lead to soil and forage degradation. It is better to use the word “optimize,” because that word implies that pasture forage and other elements of the diet are managed by the farmer under the guidance of the certifier and the farm plan to keep the overall system in balance for optimal animal health, soil health and forage health.

***For livestock operations with ruminant animals, the operation’s Organic System Plan shall describe:***

- 1) the amount of pasture provided per animal;***
- 2) the average amount of time that animals are grazed on a daily basis;***
- 3) the portion of the total feed requirement that will be provided from pasture;***
- 4) circumstances under which animals will be temporarily confined;***
- 5) the records that are maintained to demonstrate compliance with pasture requirements.***

AOD:

We agree with the language in numbered sections 1,2,4 and 5. For section 3, building on our previous comments about the un-measurability of DMI, we do not think it is possible for farmers to describe with any accuracy the portion of the total feed requirement that will be provided from pasture. Absent an accurate measurement of pasture, farmers and certifiers will be left either to guesswork. A measurement based on guesswork is not beneficial to the organic system plan. We recommend not implementing section 3 until there is much greater clarity and agreement on exactly how farmers and certifiers will make accurate calculations.

***B. Temporary Confinement***

***Temporary confinement means the period of time when ruminant livestock are denied pasture. The length of temporary confinement will vary according to the conditions on which it is based (such as the duration of inclement weather) and instances of temporary confinement shall be the minimum time necessary. In no case shall temporary confinement be allowed as a continuous production system. All instances of temporary confinement shall be documented in the Organic System Plan and in records maintained by the operation.***

AOD:

We agree with this language.

***Temporary confinement is allowed only in the following situations:***

- 1) During periods of inclement weather such as severe weather occurring over a period of several days during the growing season;***
- 2) conditions under which the health, safety, or wellbeing of an individual animal could be jeopardized, including to restore the health of an individual animal or to prevent the spread of disease from an infected animal to other animals;***
- 3) To protect soil or water quality.***

AOD:

We agree in general with this language, but we have a concern about potential conflicts between section 3 (protecting soil and water quality) and the requirement for 30% DMI / minimum 120 days. In times of drought or stress, it is quite possible (even likely) that the directive to protect soil and water quality will lead to a pasture management plan with less than 30% DMI from pasture and/or fewer than 120 days on pasture. We are not sure how a farmer would resolve this conflict without falling out of compliance.

**C. Appropriate Pasture Conditions**

***Appropriate pasture conditions shall be determined in accordance with the regional NRCS Practice Standards for Prescribed Grazing (Code 528) for the number of animals in the Organic System Plan.***

AOD:

While we applaud NOSB for looking at mechanisms that will allow for regional customization of dairy farm plans, we regret that NRCS code 528, when applied in combination with the other proposals in the guidance statement, is not currently in the best interest of U.S. organic dairy farmers, especially those in the Inter-mountain West.

1. Use of NRCS in cow-calf beef operations vs. dairy farms. In the Inter-mountain West, NRCS code 528 is used for cow-calf beef operations but not for dairy. In our background research, we found that many Colorado ranches use NRCS to manage soils across grazing rangelands, but to our knowledge, not a single dairy is in the program in Colorado. As dairy operators, we are concerned that this section will “force-fit” a Colorado program designed for managing rangeland, where beef cattle roam for weeks or months across many miles, and try to make it work for dairy farms, where animals stay within 2,500 ft. of the barn and cycle to and from the barn two or three times per day. The two livestock systems – beef cattle and dairy cows – are truly very different in nature. Grazing patterns are very different for beef cattle on the open range vs. dairy cows on managed pasture. A system designed for one won’t necessarily be applicable to the other.

2. No link between NRCS soil goals, NOP Guidance Statement goals, and dairy nutrition requirements. We see a very difficult problem implanting NRCS code 528, while also trying to meet the DMI and pasturing requirements, all the while managing dairy cow nutrition and its special needs. NRCS code 528 prescribes grazing in relation to soil and plant health but does not provide any link to dairy animal nutrition. We emphasize this problem because the nutrition needs of dairy cows are dramatically different (and higher) than the nutrition needs of grazing beef cattle out on the range. Furthermore, NRCS code 528 has no mechanism for managing DMI requirements. Finally, NRCS code 528 doesn’t link to any prescribed days on pasture (for example, 120 days). It’s possible that the optimum program to follow NRCS code 528 would lead to a system recommending fewer than 120 days, or perhaps less than 30% DMI. Additionally, to our knowledge NRCS code 528 has never been used in combination with any program similar to the proposed NOP guidance statement. We recommend not implementing NRCS code 528 at the same time that we are implanting the other provisions of the guidance statement.

Persons with questions or comments should feel free to contact:

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